


**CERTIFICATE OF SERVICE**

I hereby certify that on October 6, 2004, I caused two copies of the foregoing  
JOINT MOTION FOR REMAND and proposed ORDER to be served by Federal  
Express addressed as follows:

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UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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04-1530  
(Serial No. 08/736,143)

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IN RE THOMAS APPLE, PAUL NOBLE,  
JOHN FOOTEN, and ANDREW KLEIN

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Appeal from the United States Patent and Trademark Office,  
Board of Patent Appeals and Interferences.

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**ORDER**

Upon consideration of the JOINT MOTION FOR REMAND, it is hereby  
ordered that:

- (1) the motion is granted,
- (2) this case is remanded to the USPTO for further proceedings on an  
expedited basis, and
- (3) each side is to bear its own costs.

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Date

cc: Denis G. Maloney, Esq.  
John M. Whealan, Solicitor

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**JOINT MOTION FOR REMAND**

Appellants, Thomas Apple et al., and Appellee, Director of the United States Patent and Trademark Office (USPTO), jointly move to remand this case back to the USPTO to permit further proceedings. A proposed ORDER is attached.

After a thorough review of this case, it appears that a remand is warranted for further prosecution before a USPTO examiner. Therefore, if remanded, the USPTO Board of Patent Appeals and Interferences will vacate its decisions and remand this case to the examiner for further appropriate action.

Pursuant to Appellants' request, it is noted that since the subject patent application 08/736,143 was filed on October 28, 1996, patent term extension possibilities found in 37 C.F.R. § 1.701(a)(3) apply. Also, pursuant to Appellants' request, the USPTO agrees to conduct the further USPTO proceedings in an

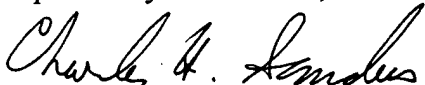
expedited manner. See USPTO Manual of Patent Examining Procedure § 708.01 (listing the bases that a case should be handled in an expedited manner).

Specifically, the Solicitor's Office shall monitor this case upon a remand. After the Board vacates its decisions and remands the case to a USPTO examiner, he will attempt, within three months, to issue his office action on the case.

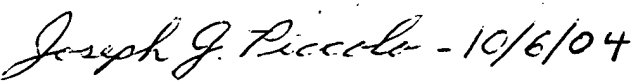
A remand to permit further proceedings in the USPTO at this time would avoid the needless expenditure of additional resources of this Court, the Appellants, and the USPTO. See, e.g., In re Gould, 673 F.2d 1385, 1387 (CCPA 1982).

Hence, the parties respectfully request that this Court remand this appeal to the USPTO to conduct further proceedings.

Respectfully submitted,

  
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